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In re Application of
Ogawa et al.
Application No. 10/522,569
Filed: November 17, 2005
Attorney Docket No. 033082M239

OFFICE OF PETITIONS
DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 9, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). No extensions of time under the provisions of 37 CFR 1.136(b) were obtained. As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed August 7, 2007, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on October 8, 2007. See MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of \$810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of \$1,540.00; and (3) a proper statement of unintentional delay.

Further, since the \$810.00, Request for Continued Examination fee submitted with the petition on September 9, 2008 is a duplicate payment, this fee is unnecessary and will be refunded to petitioner's deposit account in due course.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

The file is now being forwarded to Technology Center 1792 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions